IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH JAIPUR.

O R D E R

Pyare Miya
Vs.
Mohd.Abid and anr.

S.B. CIVIL WRIT PETITION NO.1898/2007.

Date of Order:- 27/4/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri Praveen Jain for the petitioner.
Shri J.P. Goyal for the respondents.

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The petitioner-tenant has challenged the order passed by the Rent Tribunal dated 22/2/2007 whereby his application for taking the affidavits on record has been rejected in the application for eviction filed by the respondent-landlord under Section 9 of the Rajasthan Rent Control Act, 2001.

According to the provisions of Section 9 of the Act of 2001, the petitioner as non-applicant before the

learned Rent Tribunal was required to produce evidence with written-statement only.

Learned counsel for the petitioner argued that the Rajasthan Rent Control Act, 2001 is a new Act and therefore on his own mistake, the affidavit could not be filed along with the written-statement. Besides, witnesses were not available at that time. He argued that although the written-statement was filed by the petitioner on 13/1/2006 but the affidavit and documents on which the petitioner seeks to rely upon were filed by him on 19/8/2006 and they are presently on record but they would not be read in evidence in view of the impugned-order passed by the learned Rent Tribunal while rejecting his application. He has placed reliance on the judgments of this Court in **Madan Lal Vs. Rent Tribunal : [R.D.D. 2006(4) 2413]** and **Mohd.Yunus Vs. Badam Bai [2006(1) D.N.J. 86].**

Shri J.P. Goyal, learned counsel appearing for respondent No.1 while

opposing the writ petition argued that according to the provisions of the Act of 2001, the petitioner was required to file his affidavits and documents alongwith the written-statement. Having not doing so, he cannot be now permitted to to do so.

In rebuttal, learned counsel for the petitioner argued that after filing the affidavits and documents the matter is being adjourned from time to time and even cross-examination on the affidavit of the applicant-respondent No.1 has not been made till date.

Keeping in view the facts and circumstances of the case and ratio of the aforesaid two judgments of this Court wherein this Court while making interpretation of Order 8 Rule 1 CPC read with Sections 9 and 14 of the Act held that the learned Rent Tribunal in its discretion can extend the time for filing of the affidavit /documents, I deem it appropriate to direct the Rent Tribunal to take documents filed by the petitioner

on record subject to petitioner paying a sum of Rs.1000/- to respondent No.1 on the next date of hearing fixed before that court.

With these observations, the writ petition is allowed.

(MOHAMMAD RAFIQ), J.

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